

Part 3 Abortion

Superseded 9/1/2021

76-7-301 Definitions.

As used in this part:

- (1)
 - (a) "Abortion" means:
 - (i) the intentional termination or attempted termination of human pregnancy after implantation of a fertilized ovum through a medical procedure carried out by a physician or through a substance used under the direction of a physician;
 - (ii) the intentional killing or attempted killing of a live unborn child through a medical procedure carried out by a physician or through a substance used under the direction of a physician; or
 - (iii) the intentional causing or attempted causing of a miscarriage through a medical procedure carried out by a physician or through a substance used under the direction of a physician.
 - (b) "Abortion" does not include:
 - (i) removal of a dead unborn child;
 - (ii) removal of an ectopic pregnancy; or
 - (iii) the killing or attempted killing of an unborn child without the consent of the pregnant woman, unless:
 - (A) the killing or attempted killing is done through a medical procedure carried out by a physician or through a substance used under the direction of a physician; and
 - (B) the physician is unable to obtain the consent due to a medical emergency.
- (2) "Abortion clinic" means the same as that term is defined in Section 26-21-2.
- (3) "Abuse" means the same as that term is defined in Section 78A-6-105.
- (4) "Department" means the Department of Health.
- (5) "Down syndrome" means a genetic condition associated with an extra chromosome 21, in whole or in part, or an effective trisomy for chromosome 21.
- (6) "Gestational age" means the age of an unborn child as calculated from the first day of the last menstrual period of the pregnant woman.
- (7) "Hospital" means:
 - (a) a general hospital licensed by the department according to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act; and
 - (b) a clinic or other medical facility to the extent that such clinic or other medical facility is certified by the department as providing equipment and personnel sufficient in quantity and quality to provide the same degree of safety to the pregnant woman and the unborn child as would be provided for the particular medical procedures undertaken by a general hospital licensed by the department.
- (8) "Information module" means the pregnancy termination information module prepared by the department.
- (9) "Medical emergency" means that condition which, on the basis of the physician's good faith clinical judgment, so threatens the life of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death, or for which a delay will create serious risk of substantial and irreversible impairment of major bodily function.
- (10) "Minor" means an individual who is:
 - (a) under 18 years of age;
 - (b) unmarried; and

(c) not emancipated.

(11)

(a) "Partial birth abortion" means an abortion in which the person performing the abortion:

- (i) deliberately and intentionally vaginally delivers a living fetus until, in the case of a head first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and
- (ii) performs the overt act, other than completion of delivery, that kills the partially living fetus.

(b) "Partial birth abortion" does not include the dilation and evacuation procedure involving dismemberment prior to removal, the suction curettage procedure, or the suction aspiration procedure for abortion.

(12) "Physician" means:

- (a) a medical doctor licensed to practice medicine and surgery under Title 58, Chapter 67, Utah Medical Practice Act;
- (b) an osteopathic physician licensed to practice osteopathic medicine under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or
- (c) a physician employed by the federal government who has qualifications similar to a person described in Subsection (12)(a) or (b).

(13)

(a) "Severe brain abnormality" means a malformation or defect that causes an individual to live in a mentally vegetative state.

(b) "Severe brain abnormality" does not include:

- (i) Down syndrome;
- (ii) spina bifida;
- (iii) cerebral palsy; or
- (iv) any other malformation, defect, or condition that does not cause an individual to live in a mentally vegetative state.

Amended by Chapter 124, 2019 General Session

Amended by Chapter 208, 2019 General Session

Effective 9/1/2021

76-7-301 Definitions.

As used in this part:

(1)

(a) "Abortion" means:

- (i) the intentional termination or attempted termination of human pregnancy after implantation of a fertilized ovum through a medical procedure carried out by a physician or through a substance used under the direction of a physician;
- (ii) the intentional killing or attempted killing of a live unborn child through a medical procedure carried out by a physician or through a substance used under the direction of a physician; or
- (iii) the intentional causing or attempted causing of a miscarriage through a medical procedure carried out by a physician or through a substance used under the direction of a physician.

(b) "Abortion" does not include:

- (i) removal of a dead unborn child;
- (ii) removal of an ectopic pregnancy; or

- (iii) the killing or attempted killing of an unborn child without the consent of the pregnant woman, unless:
 - (A) the killing or attempted killing is done through a medical procedure carried out by a physician or through a substance used under the direction of a physician; and
 - (B) the physician is unable to obtain the consent due to a medical emergency.
- (2) "Abortion clinic" means the same as that term is defined in Section 26-21-2.
- (3) "Abuse" means the same as that term is defined in Section 80-1-102.
- (4) "Department" means the Department of Health.
- (5) "Down syndrome" means a genetic condition associated with an extra chromosome 21, in whole or in part, or an effective trisomy for chromosome 21.
- (6) "Gestational age" means the age of an unborn child as calculated from the first day of the last menstrual period of the pregnant woman.
- (7) "Hospital" means:
 - (a) a general hospital licensed by the department according to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act; and
 - (b) a clinic or other medical facility to the extent that such clinic or other medical facility is certified by the department as providing equipment and personnel sufficient in quantity and quality to provide the same degree of safety to the pregnant woman and the unborn child as would be provided for the particular medical procedures undertaken by a general hospital licensed by the department.
- (8) "Information module" means the pregnancy termination information module prepared by the department.
- (9) "Medical emergency" means that condition which, on the basis of the physician's good faith clinical judgment, so threatens the life of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death, or for which a delay will create serious risk of substantial and irreversible impairment of major bodily function.
- (10) "Minor" means an individual who is:
 - (a) under 18 years old;
 - (b) unmarried; and
 - (c) not emancipated.
- (11)
 - (a) "Partial birth abortion" means an abortion in which the person performing the abortion:
 - (i) deliberately and intentionally vaginally delivers a living fetus until, in the case of a head first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and
 - (ii) performs the overt act, other than completion of delivery, that kills the partially living fetus.
 - (b) "Partial birth abortion" does not include the dilation and evacuation procedure involving dismemberment prior to removal, the suction curettage procedure, or the suction aspiration procedure for abortion.
- (12) "Physician" means:
 - (a) a medical doctor licensed to practice medicine and surgery under Title 58, Chapter 67, Utah Medical Practice Act;
 - (b) an osteopathic physician licensed to practice osteopathic medicine under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or
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(13)

- (a) "Severe brain abnormality" means a malformation or defect that causes an individual to live in a mentally vegetative state.
- (b) "Severe brain abnormality" does not include:
 - (i) Down syndrome;
 - (ii) spina bifida;
 - (iii) cerebral palsy; or
 - (iv) any other malformation, defect, or condition that does not cause an individual to live in a mentally vegetative state.

Amended by Chapter 262, 2021 General Session

76-7-301.1 Preamble -- Findings and policies of Legislature.

- (1) It is the finding and policy of the Legislature, reflecting and reasserting the provisions of Article I, Sections 1 and 7, Utah Constitution, which recognize that life founded on inherent and inalienable rights is entitled to protection of law and due process; and that unborn children have inherent and inalienable rights that are entitled to protection by the state of Utah pursuant to the provisions of the Utah Constitution.
- (2) The state of Utah has a compelling interest in the protection of the lives of unborn children.
- (3) It is the intent of the Legislature to protect and guarantee to unborn children their inherent and inalienable right to life as required by Article I, Sections 1 and 7, Utah Constitution.
- (4) It is also the policy of the Legislature and of the state that, in connection with abortion, a woman's liberty interest, in limited circumstances, may outweigh the unborn child's right to protection. These limited circumstances arise when the abortion is necessary to save the pregnant woman's life or prevent grave damage to her medical health, and when pregnancy occurs as a result of rape or incest. It is further the finding and policy of the Legislature and of the state that a woman may terminate the pregnancy if the unborn child would be born with grave defects.

Amended by Chapter 2, 1991 Special Session 1

Amended by Chapter 2, 1991 Special Session 1

76-7-301.5 Relationship to criminal homicide.

- (1) This part does not apply to the killing or attempted killing of a live unborn child in any manner that is not an abortion.
- (2) The killing or attempted killing of a live unborn child in a manner that is not an abortion shall be punished as provided in Title 76, Chapter 5, Part 2, Criminal Homicide.

Enacted by Chapter 13, 2010 General Session

76-7-302 Circumstances under which abortion authorized.

- (1) As used in this section, "viable" means that the unborn child has reached a stage of fetal development when the unborn child is potentially able to live outside the womb, as determined by the attending physician to a reasonable degree of medical certainty.
- (2) An abortion may be performed in this state only by a physician.
- (3) An abortion may be performed in this state only under the following circumstances:
 - (a) the unborn child is not viable; or
 - (b) the unborn child is viable, if:

- (i) the abortion is necessary to avert:
 - (A) the death of the woman on whom the abortion is performed; or
 - (B) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed;
- (ii) two physicians who practice maternal fetal medicine concur, in writing, in the patient's medical record that the fetus:
 - (A) has a defect that is uniformly diagnosable and uniformly lethal; or
 - (B) has a severe brain abnormality that is uniformly diagnosable; or
- (iii)
 - (A) the woman is pregnant as a result of:
 - (I) rape, as described in Section 76-5-402;
 - (II) rape of a child, as described in Section 76-5-402.1; or
 - (III) incest, as described in Subsection 76-5-406(2)(j) or Section 76-7-102; and
 - (B) before the abortion is performed, the physician who performs the abortion:
 - (I) verifies that the incident described in Subsection (3)(b)(iii)(A) has been reported to law enforcement; and
 - (II) complies with the requirements of Section 62A-4a-403.
- (4) An abortion may be performed only in an abortion clinic or a hospital, unless it is necessary to perform the abortion in another location due to a medical emergency.

Amended by Chapter 189, 2019 General Session

Amended by Chapter 208, 2019 General Session

(Contingently Effective)

76-7-302.4 Abortion restriction of an unborn child with Down syndrome.

Notwithstanding any other provision of this part, an abortion may not be performed if the pregnant mother's sole reason for the abortion is that the unborn child has or may have Down syndrome, unless the abortion is permissible for a reason described in Subsection 76-7-302(3)(b).

Enacted by Chapter 124, 2019 General Session

76-7-302.5 Circumstances under which abortion prohibited.

Notwithstanding any other provision of this part, a person may not perform or attempt to perform an abortion after the unborn child reaches 18 weeks gestational age unless the abortion is permissible for a reason described in Subsection 76-7-302(3)(b).

Enacted by Chapter 208, 2019 General Session

76-7-303 Concurrence of attending physician based on medical judgment.

No abortion may be performed in this state without the concurrence of the attending physician, based on his best medical judgment.

Enacted by Chapter 33, 1974 General Session

76-7-304 Considerations by physician -- Notice to a parent or guardian -- Exceptions.

- (1) To enable the physician to exercise the physician's best medical judgment, the physician shall consider all factors relevant to the well-being of a pregnant woman upon whom an abortion is to be performed, including:

- (a) her physical, emotional, and psychological health and safety;
 - (b) her age; and
 - (c) her familial situation.
- (2) Subject to Subsection (3), at least 24 hours before a physician performs an abortion on a minor, the physician shall notify a parent or guardian of the minor that the minor intends to have an abortion.
- (3) A physician is not required to comply with Subsection (2) if:
- (a) subject to Subsection (4)(a):
 - (i) a medical condition exists that, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant minor as to necessitate the abortion of her pregnancy to avert:
 - (A) the minor's death; or
 - (B) a serious risk of substantial and irreversible impairment of a major bodily function of the minor; and
 - (ii) there is not sufficient time to give the notice required under Subsection (2) before it is necessary to terminate the minor's pregnancy in order to avert the minor's death or impairment described in Subsection (3)(a)(i);
 - (b) subject to Subsection (4)(b):
 - (i) the physician complies with Subsection (5); and
 - (ii)
 - (A) the minor is pregnant as a result of incest to which the parent or guardian was a party; or
 - (B) the parent or guardian has abused the minor; or
 - (c) subject to Subsection (4)(b), the parent or guardian has not assumed responsibility for the minor's care and upbringing.
- (4)
- (a) If, for the reason described in Subsection (3)(a), a physician does not give the 24-hour notice described in Subsection (2), the physician shall give the required notice as early as possible before the abortion, unless it is necessary to perform the abortion immediately in order to avert the minor's death or impairment described in Subsection (3)(a)(i).
 - (b) If, for a reason described in Subsection (3)(b) or (c), a parent or guardian of a minor is not notified that the minor intends to have an abortion, the physician shall notify another parent or guardian of the minor, if the minor has another parent or guardian that is not exempt from notification under Subsection (3)(b) or (c).
- (5) If, for a reason described in Subsection (3)(b)(ii)(A) or (B), a physician does not notify a parent or guardian of a minor that the minor intends to have an abortion, the physician shall report the incest or abuse to the Division of Child and Family Services within the Department of Human Services.

Amended by Chapter 282, 2018 General Session

76-7-304.5 Consent required for abortions performed on minors -- Hearing to allow a minor to self-consent -- Appeals.

- (1) In addition to the other requirements of this part, a physician may not perform an abortion on a minor unless:
- (a) the physician obtains the informed written consent of a parent or guardian of the minor, consistent with Sections 76-7-305 and 76-7-305.5;
 - (b) the minor is granted the right, by court order under Subsection (4)(b), to consent to the abortion without obtaining consent from a parent or guardian; or

- (c)
 - (i) a medical condition exists that, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant minor as to necessitate the abortion of her pregnancy to avert:
 - (A) the minor's death; or
 - (B) a serious risk of substantial and irreversible impairment of a major bodily function of the minor; and
 - (ii) there is not sufficient time to obtain the consent in the manner chosen by the minor under Subsection (2) before it is necessary to terminate the minor's pregnancy in order to avert the minor's death or impairment described in Subsection (1)(c)(i).
- (2) A pregnant minor who wants to have an abortion may choose:
 - (a) to seek consent from a parent or guardian under Subsection (1)(a); or
 - (b) to seek a court order under Subsection (1)(b).
- (3) If a pregnant minor fails to obtain the consent of a parent or guardian of the minor to the performance of an abortion, or if the minor chooses not to seek the consent of a parent or guardian, the minor may file a petition with the juvenile court to obtain a court order under Subsection (1)(b).
- (4)
 - (a) A hearing on a petition described in Subsection (3) shall be closed to the public.
 - (b) After considering the evidence presented at the hearing, the court shall order that the minor may obtain an abortion without the consent of a parent or guardian of the minor if the court finds by a preponderance of the evidence that:
 - (i) the minor:
 - (A) has given her informed consent to the abortion; and
 - (B) is mature and capable of giving informed consent to the abortion; or
 - (ii) an abortion would be in the minor's best interest.
- (5) The Judicial Council shall make rules that:
 - (a) provide for the administration of the proceedings described in this section;
 - (b) provide for the appeal of a court's decision under this section;
 - (c) ensure the confidentiality of the proceedings described in this section and the records related to the proceedings; and
 - (d) establish procedures to expedite the hearing and appeal proceedings described in this section.

Amended by Chapter 282, 2018 General Session

**76-7-305 Informed consent requirements for abortion -- 72-hour wait mandatory --
Exceptions.**

- (1) A person may not perform an abortion, unless, before performing the abortion, the physician who will perform the abortion obtains from the woman on whom the abortion is to be performed a voluntary and informed written consent that is consistent with:
 - (a) Section 8.08 of the American Medical Association's Code of Medical Ethics, Current Opinions; and
 - (b) the provisions of this section.
- (2) Except as provided in Subsection (8), consent to an abortion is voluntary and informed only if, at least 72 hours before the abortion:

- (a) a staff member of an abortion clinic or hospital, physician, registered nurse, nurse practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or physician's assistant presents the information module to the pregnant woman;
- (b) the pregnant woman views the entire information module and presents evidence to the individual described in Subsection (2)(a) that the pregnant woman viewed the entire information module;
- (c) after receiving the evidence described in Subsection (2)(b), the individual described in Subsection (2)(a):
 - (i) documents that the pregnant woman viewed the entire information module;
 - (ii) gives the pregnant woman, upon her request, a copy of the documentation described in Subsection (2)(c)(i); and
 - (iii) provides a copy of the statement described in Subsection (2)(c)(i) to the physician who is to perform the abortion, upon request of that physician or the pregnant woman;
- (d) after the pregnant woman views the entire information module, the physician who is to perform the abortion, the referring physician, a physician, a registered nurse, nurse practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or physician's assistant, in a face-to-face consultation in any location in the state, orally informs the woman of:
 - (i) the nature of the proposed abortion procedure;
 - (ii) specifically how the procedure described in Subsection (2)(d)(i) will affect the fetus;
 - (iii) the risks and alternatives to the abortion procedure or treatment;
 - (iv) the options and consequences of aborting a medication-induced abortion, if the proposed abortion procedure is a medication-induced abortion;
 - (v) the probable gestational age and a description of the development of the unborn child at the time the abortion would be performed;
 - (vi) the medical risks associated with carrying her child to term;
 - (vii) the right to view an ultrasound of the unborn child, at no expense to the pregnant woman, upon her request; and
 - (viii) when the result of a prenatal screening or diagnostic test indicates that the unborn child has or may have Down syndrome, the Department of Health website containing the information described in Section 26-10-14, including the information on the informational support sheet; and
- (e) after the pregnant woman views the entire information module, a staff member of the abortion clinic or hospital provides to the pregnant woman:
 - (i) on a document that the pregnant woman may take home:
 - (A) the address for the department's website described in Section 76-7-305.5; and
 - (B) a statement that the woman may request, from a staff member of the abortion clinic or hospital where the woman viewed the information module, a printed copy of the material on the department's website;
 - (ii) a printed copy of the material on the department's website described in Section 76-7-305.5, if requested by the pregnant woman; and
 - (iii) a copy of the form described in Subsection 26-21-33(3)(a)(i) regarding the disposition of the aborted fetus.
- (3) Before performing an abortion, the physician who is to perform the abortion shall:
 - (a) in a face-to-face consultation, provide the information described in Subsection (2)(d), unless the attending physician or referring physician is the individual who provided the information required under Subsection (2)(d); and
 - (b)

- (i) obtain from the pregnant woman a written certification that the information required to be provided under Subsection (2) and this Subsection (3) was provided in accordance with the requirements of Subsection (2) and this Subsection (3);
 - (ii) obtain a copy of the statement described in Subsection (2)(c)(i); and
 - (iii) ensure that:
 - (A) the woman has received the information described in Subsections 26-21-33(3) and (4); and
 - (B) if the woman has a preference for the disposition of the aborted fetus, the woman has informed the health care facility of the woman's decision regarding the disposition of the aborted fetus.
- (4) When a serious medical emergency compels the performance of an abortion, the physician shall inform the woman prior to the abortion, if possible, of the medical indications supporting the physician's judgment that an abortion is necessary.
- (5) If an ultrasound is performed on a woman before an abortion is performed, the individual who performs the ultrasound, or another qualified individual, shall:
 - (a) inform the woman that the ultrasound images will be simultaneously displayed in a manner to permit her to:
 - (i) view the images, if she chooses to view the images; or
 - (ii) not view the images, if she chooses not to view the images;
 - (b) simultaneously display the ultrasound images in order to permit the woman to:
 - (i) view the images, if she chooses to view the images; or
 - (ii) not view the images, if she chooses not to view the images;
 - (c) inform the woman that, if she desires, the person performing the ultrasound, or another qualified person shall provide a detailed description of the ultrasound images, including:
 - (i) the dimensions of the unborn child;
 - (ii) the presence of cardiac activity in the unborn child, if present and viewable; and
 - (iii) the presence of external body parts or internal organs, if present and viewable; and
 - (d) provide the detailed description described in Subsection (5)(c), if the woman requests it.
- (6) The information described in Subsections (2), (3), and (5) is not required to be provided to a pregnant woman under this section if the abortion is performed for a reason described in:
 - (a) Subsection 76-7-302(3)(b)(i), if the treating physician and one other physician concur, in writing, that the abortion is necessary to avert:
 - (i) the death of the woman on whom the abortion is performed; or
 - (ii) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed; or
 - (b) Subsection 76-7-302(3)(b)(ii).
- (7) In addition to the criminal penalties described in this part, a physician who violates the provisions of this section:
 - (a) is guilty of unprofessional conduct as defined in Section 58-67-102 or 58-68-102; and
 - (b) shall be subject to:
 - (i) suspension or revocation of the physician's license for the practice of medicine and surgery in accordance with Section 58-67-401 or 58-68-401; and
 - (ii) administrative penalties in accordance with Section 58-67-402 or 58-68-402.
- (8) A physician is not guilty of violating this section for failure to furnish any of the information described in Subsection (2) or (3), or for failing to comply with Subsection (5), if:
 - (a) the physician can demonstrate by a preponderance of the evidence that the physician reasonably believed that furnishing the information would have resulted in a severely adverse effect on the physical or mental health of the pregnant woman;

- (b) in the physician's professional judgment, the abortion was necessary to avert:
 - (i) the death of the woman on whom the abortion is performed; or
 - (ii) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed;
 - (c) the pregnancy was the result of rape or rape of a child, as defined in Sections 76-5-402 and 76-5-402.1;
 - (d) the pregnancy was the result of incest, as defined in Subsection 76-5-406(2)(j) and Section 76-7-102; or
 - (e) at the time of the abortion, the pregnant woman was 14 years of age or younger.
- (9) A physician who complies with the provisions of this section and Section 76-7-304.5 may not be held civilly liable to the physician's patient for failure to obtain informed consent under Section 78B-3-406.
- (10)
- (a) The department shall provide an ultrasound, in accordance with the provisions of Subsection (5)(b), at no expense to the pregnant woman.
 - (b) A local health department shall refer a pregnant woman who requests an ultrasound described in Subsection (10)(a) to the department.
- (11) A physician is not guilty of violating this section if:
- (a) the information described in Subsection (2) is provided less than 72 hours before the physician performs the abortion; and
 - (b) in the physician's professional judgment, the abortion was necessary in a case where:
 - (i) a ruptured membrane, documented by the attending or referring physician, will cause a serious infection; or
 - (ii) a serious infection, documented by the attending or referring physician, will cause a ruptured membrane.

Amended by Chapter 4, 2020 Special Session 5

76-7-305.5 Requirements for information module and website.

- (1) In order to ensure that a woman's consent to an abortion is truly an informed consent, the department shall, in accordance with the requirements of this section, develop an information module and maintain a public website.
- (2) The information module and public website described in Subsection (1) shall:
 - (a) be scientifically accurate, comprehensible, and presented in a truthful, nonmisleading manner;
 - (b) present adoption as a preferred and positive choice and alternative to abortion;
 - (c) be produced in a manner that conveys the state's preference for childbirth over abortion;
 - (d) state that the state prefers childbirth over abortion;
 - (e) state that it is unlawful for any person to coerce a woman to undergo an abortion;
 - (f) state that any physician who performs an abortion without obtaining the woman's informed consent or without providing her a private medical consultation in accordance with the requirements of this section, may be liable to her for damages in a civil action at law;
 - (g) provide a geographically indexed list of resources and public and private services available to assist, financially or otherwise, a pregnant woman during pregnancy, at childbirth, and while the child is dependent, including:
 - (i) medical assistance benefits for prenatal care, childbirth, and neonatal care;
 - (ii) services and supports available under Section 35A-3-308;
 - (iii) other financial aid that may be available during an adoption;

- (iv) services available from public adoption agencies, private adoption agencies, and private attorneys whose practice includes adoption; and
- (v) the names, addresses, and telephone numbers of each person listed under this Subsection (2)(g);
- (h) describe the adoption-related expenses that may be paid under Section 76-7-203;
- (i) describe the persons who may pay the adoption related expenses described in Subsection (2)(h);
- (j) except as provided in Subsection (4), describe the legal responsibility of the father of a child to assist in child support, even if the father has agreed to pay for an abortion;
- (k) except as provided in Subsection (4), describe the services available through the Office of Recovery Services, within the Department of Human Services, to establish and collect the support described in Subsection (2)(j);
- (l) state that private adoption is legal;
- (m) describe and depict, with pictures or video segments, the probable anatomical and physiological characteristics of an unborn child at two-week gestational increments from fertilization to full term, including:
 - (i) brain and heart function;
 - (ii) the presence and development of external members and internal organs; and
 - (iii) the dimensions of the fetus;
- (n) show an ultrasound of the heartbeat of an unborn child at:
 - (i) four weeks from conception;
 - (ii) six to eight weeks from conception; and
 - (iii) each month after 10 weeks gestational age, up to 14 weeks gestational age;
- (o) describe abortion procedures used in current medical practice at the various stages of growth of the unborn child, including:
 - (i) the medical risks associated with each procedure;
 - (ii) the risk related to subsequent childbearing that are associated with each procedure; and
 - (iii) the consequences of each procedure to the unborn child at various stages of fetal development;
- (p) describe the possible detrimental psychological effects of abortion;
- (q) describe the medical risks associated with carrying a child to term;
- (r) include relevant information on the possibility of an unborn child's survival at the two-week gestational increments described in Subsection (2)(m);
- (s) except as provided in Subsection (5), include:
 - (i) information regarding substantial medical evidence from studies concluding that an unborn child who is at least 20 weeks gestational age may be capable of experiencing pain during an abortion procedure; and
 - (ii) the measures that will be taken in accordance with Section 76-7-308.5;
- (t) explain the options and consequences of aborting a medication-induced abortion;
- (u) include the following statement regarding a medication-induced abortion, "Research indicates that mifepristone alone is not always effective in ending a pregnancy. You may still have a viable pregnancy after taking mifepristone. If you have taken mifepristone but have not yet taken the second drug and have questions regarding the health of your fetus or are questioning your decision to terminate your pregnancy, you should consult a physician immediately.";
- (v) inform a pregnant woman that she has the right to view an ultrasound of the unborn child, at no expense to her, upon her request;
- (w) inform a pregnant woman that she has the right to:

- (i) determine the final disposition of the remains of the aborted fetus;
 - (ii) unless the woman waives this right in writing, wait up to 72 hours after the abortion procedure is performed to make a determination regarding the disposition of the aborted fetus before the health care facility may dispose of the fetal remains;
 - (iii) receive information about options for disposition of the aborted fetus, including the method of disposition that is usual and customary for a health care facility; and
 - (iv) for a medication-induced abortion, return the aborted fetus to the health care facility for disposition; and
 - (x) provide a digital copy of the form described in Subsection 26-21-33(3)(a)(i); and
 - (y) be in a typeface large enough to be clearly legible.
- (3) The information module and website described in Subsection (1) may include a toll-free 24-hour telephone number that may be called in order to obtain, orally, a list and description of services, agencies, and adoption attorneys in the locality of the caller.
- (4) The department may develop a version of the information module and website that omits the information in Subsections (2)(j) and (k) for a viewer who is pregnant as the result of rape.
- (5) The department may develop a version of the information module and website that omits the information described in Subsection (2)(s) for a viewer who will have an abortion performed:
- (a) on an unborn child who is less than 20 weeks gestational age at the time of the abortion; or
 - (b) on an unborn child who is at least 20 weeks gestational age at the time of the abortion, if:
 - (i) the abortion is being performed for a reason described in Subsection 76-7-302(3)(b)(i) or (ii); and
 - (ii) due to a serious medical emergency, time does not permit compliance with the requirement to provide the information described in Subsection (2)(s).
- (6) The department and each local health department shall make the information module and the website described in Subsection (1) available at no cost to any person.
- (7) The department shall make the website described in Subsection (1) available for viewing on the department's website by clicking on a conspicuous link on the home page of the website.
- (8) The department shall ensure that the information module is:
- (a) available to be viewed at all facilities where an abortion may be performed;
 - (b) interactive for the individual viewing the module, including the provision of opportunities to answer questions and manually engage with the module before the module transitions from one substantive section to the next;
 - (c) produced in English and may include subtitles in Spanish or another language; and
 - (d) capable of being viewed on a tablet or other portable device.
- (9) After the department releases the initial version of the information module, for the use described in Section 76-7-305, the department shall:
- (a) update the information module, as required by law; and
 - (b) present an updated version of the information module to the Health and Human Services Interim Committee for the committee's review and recommendation before releasing the updated version for the use described in Section 76-7-305.

Amended by Chapter 251, 2020 General Session

76-7-305.7 Statistical report by the Department of Health.

- (1) In accordance with Subsection (2), the department shall, on an annual basis, after December 31 of each year, compile and report the following information, relating to the preceding calendar year, to the Health and Human Services Interim Committee:
- (a) the total number of abortions that were performed in the state;

- (b) the reported reasons, if any, the women sought the abortions described in Subsection (1)(a);
 - (c) the stage of pregnancy in which the abortions described in Subsection (1)(a) were performed, including:
 - (i) the trimester; and
 - (ii) estimated week of pregnancy;
 - (d) the races and ethnicities of the women who obtained the abortions described in Subsection (1)(a), including:
 - (i) Alaska Native;
 - (ii) American Indian;
 - (iii) Asian;
 - (iv) Black or African American;
 - (v) Hispanic or Latino;
 - (vi) Native Hawaiian or Pacific Islander;
 - (vii) White, not Hispanic or Latino; and
 - (viii) some other race;
 - (e) the total amount of informed consent material described in this section that was distributed or accessed;
 - (f) the number of women who obtained abortions in this state without receiving the informed consent materials described in this section;
 - (g) the number of statements signed by attending physicians under Subsection 76-7-313(3); and
 - (h) any other information pertaining to obtaining informed consent from a woman who seeks an abortion.
- (2) The report described in Subsection (1) shall be prepared and presented in a manner that preserves physician and patient anonymity.

Amended by Chapter 282, 2018 General Session

76-7-306 Refusal to participate, admit, or treat for abortion based on religious or moral grounds -- Cause of action.

- (1) As used in this section:
 - (a) "Health care facility" is as defined in Section 26-21-2.
 - (b) "Health care provider" means an individual who is an employee of, has practice privileges at, or is otherwise associated with a health care facility.
- (2) A health care provider may, on religious or moral grounds, refuse to perform or participate in any way, in:
 - (a) an abortion; or
 - (b) a procedure that is intended to, or likely to, result in the termination of a pregnancy.
- (3) Except as otherwise required by law, a health care facility may refuse, on religious or moral grounds, to:
 - (a) admit a patient for an abortion procedure or another procedure that is intended to, or likely to, result in the termination of a pregnancy; or
 - (b) perform for a patient an abortion procedure or another procedure that is intended to, or likely to, result in the termination of a pregnancy.
- (4) A health care provider's refusal under Subsection (2) and a health care facility's refusal under Subsection (3) may not be the basis for civil liability or other recriminatory action.
- (5) A health care facility, employer, or other person may not take an adverse action against a health care provider for exercising the health care provider's right of refusal described in

Subsection (2), or for bringing or threatening to bring an action described in Subsection (6), including:

- (a) dismissal;
 - (b) demotion;
 - (c) suspension;
 - (d) discipline;
 - (e) discrimination;
 - (f) harassment;
 - (g) retaliation;
 - (h) adverse change in status;
 - (i) termination of, adverse alteration of, or refusal to renew an association or agreement; or
 - (j) refusal to provide a benefit, privilege, raise, promotion, tenure, or increased status that the health care provider would have otherwise received.
- (6) A person who is adversely impacted by conduct prohibited in Subsection (5) may bring a civil action for equitable relief, including reinstatement, and for damages. A person who brings an action under this section must commence the action within three years after the day on which the cause of action arises.

Repealed and Re-enacted by Chapter 277, 2011 General Session

76-7-307 Medical procedure required to save life of unborn child.

If an abortion is performed when the unborn child is sufficiently developed to have any reasonable possibility of survival outside its mother's womb, the medical procedure used must be that which, in the best medical judgment of the physician will give the unborn child the best chance of survival. No medical procedure designed to kill or injure that unborn child may be used unless necessary, in the opinion of the woman's physician, to prevent grave damage to her medical health.

Amended by Chapter 2, 1991 Special Session 1

Amended by Chapter 2, 1991 Special Session 1

76-7-308 Medical skills required to preserve life of unborn child.

Consistent with the purpose of saving the life of the woman or preventing grave damage to the woman's medical health, the physician performing the abortion must use all of his medical skills to attempt to promote, preserve and maintain the life of any unborn child sufficiently developed to have any reasonable possibility of survival outside of the mother's womb.

Amended by Chapter 2, 1991 Special Session 1

Amended by Chapter 2, 1991 Special Session 1

76-7-308.5 Administration of anesthetic or analgesic to an unborn child.

A physician who performs an abortion of an unborn child who is at least 20 weeks gestational age shall administer an anesthetic or analgesic to eliminate or alleviate organic pain to the unborn child caused by the particular method of abortion to be employed, unless:

- (1) the abortion is necessary to avert:
 - (a) the death of the woman on whom the abortion is performed; or
 - (b) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed;

- (2) the abortion is performed because the fetus has a defect that is uniformly diagnosable and uniformly lethal, based on the written concurrence of two physicians who practice maternal fetal medicine; or
- (3) the treating physician and one other physician concur, in writing, that the administration of an anesthetic or analgesic would:
 - (a) cause the death of the woman on whom the abortion is performed; or
 - (b) create a serious risk of substantial or irreversible impairment of a major bodily function of the woman on whom the abortion is performed.

Amended by Chapter 362, 2016 General Session

76-7-309 Pathologist's report.

Any human tissue removed during an abortion shall be submitted to a pathologist who shall make a report, including whether:

- (1) the pregnancy was aborted by evacuating the uterus; and
- (2) a medical record indicates that, through a prenatal screening or other diagnostic test, the aborted fetus had or may have had Down syndrome.

Amended by Chapter 124, 2019 General Session

76-7-310 Experimentation with unborn children prohibited -- Testing for genetic defects.

Live unborn children may not be used for experimentation, but when advisable, in the best medical judgment of the physician, may be tested for genetic defects.

Enacted by Chapter 33, 1974 General Session

76-7-310.5 Prohibition of specified abortion procedures -- Viability defined.

- (1) As used in this section, "saline abortion procedure" means performance of amniocentesis and injection of saline into the amniotic sac within the uterine cavity.
- (2)
 - (a) After viability has been determined in accordance with Subsection (2)(b), no person may knowingly perform a saline abortion procedure unless all other available abortion procedures would pose a risk to the life or the health of the pregnant woman.
 - (b) For purposes of this section determination of viability shall be made by the physician, based upon his own best clinical judgment. The physician shall determine whether, based on the particular facts of a woman's pregnancy that are known to him, and in light of medical technology and information reasonably available to him, there is a realistic possibility of maintaining and nourishing a life outside of the womb, with or without temporary, artificial life-sustaining support.
- (3) Intentional, knowing, and willful violation of this section is a third degree felony.

Amended by Chapter 272, 2004 General Session

76-7-311 Selling and buying unborn children prohibited.

Selling, buying, offering to sell and offering to buy unborn children is prohibited.

Enacted by Chapter 33, 1974 General Session

76-7-312 Intimidation or coercion to obtain abortion prohibited.

No person shall intimidate or coerce in any way any person to obtain an abortion.

Enacted by Chapter 33, 1974 General Session

76-7-313 Department's enforcement responsibility -- Physician's report to department.

- (1) In order for the department to maintain necessary statistical information and ensure enforcement of the provisions of this part:
 - (a) any physician performing an abortion must obtain and record in writing:
 - (i) the age, marital status, and county of residence of the woman on whom the abortion was performed;
 - (ii) the number of previous abortions performed on the woman described in Subsection (1)(a)(i);
 - (iii) the hospital or other facility where the abortion was performed;
 - (iv) the weight in grams of the unborn child aborted, if it is possible to ascertain;
 - (v) the pathological description of the unborn child;
 - (vi) the given gestational age of the unborn child;
 - (vii) the date the abortion was performed;
 - (viii) the measurements of the unborn child, if possible to ascertain; and
 - (ix) the medical procedure used to abort the unborn child; and
 - (b) the department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2) Each physician who performs an abortion shall provide the following to the department within 30 days after the day on which the abortion is performed:
 - (a) the information described in Subsection (1);
 - (b) a copy of the pathologist's report described in Section 76-7-309;
 - (c) an affidavit:
 - (i) indicating whether the required consent was obtained pursuant to Sections 76-7-305 and 76-7-305.5;
 - (ii) described in Subsection (3), if applicable; and
 - (iii) indicating whether at the time the physician performed the abortion, the physician had any knowledge that the pregnant woman sought the abortion solely because the unborn child had or may have had Down syndrome; and
 - (d) a certificate indicating:
 - (i) whether the unborn child was or was not viable, as defined in Subsection 76-7-302(1), at the time of the abortion;
 - (ii) whether the unborn child was older than 18 weeks gestational age at the time of the abortion; and
 - (iii) if the unborn child was viable, as defined in Subsection 76-7-302(1), or older than 18 weeks gestational age at the time of the abortion, the reason for the abortion.
- (3) If the information module or the address to the website is not provided to a pregnant woman, the physician who performs the abortion on the woman shall, within 10 days after the day on which the abortion is performed, provide to the department an affidavit that:
 - (a) specifies the information that was not provided to the woman; and
 - (b) states the reason that the information was not provided to the woman.
- (4) All information supplied to the department shall be confidential and privileged pursuant to Title 26, Chapter 25, Confidential Information Release.
- (5) The department shall pursue all administrative and legal remedies when the department determines that a physician or a facility has not complied with the provisions of this part.

Amended by Chapter 124, 2019 General Session
Amended by Chapter 208, 2019 General Session

76-7-314 Violations of abortion laws -- Classifications.

- (1) A willful violation of Section 76-7-307, 76-7-308, 76-7-310, 76-7-310.5, 76-7-311, or 76-7-312 is a felony of the third degree.
- (2) A violation of Section 76-7-326 is a felony of the third degree.
- (3) A violation of Section 76-7-302.5 or 76-7-314.5 is a felony of the second degree.
- (4) A violation of any other provision of this part, including Subsections 76-7-305(2)(a) through (c), and (e), is a class A misdemeanor.
- (5) The Department of Health shall report a physician's violation of any provision of this part to the Physicians Licensing Board, described in Section 58-67-201.
- (6) Any person with knowledge of a physician's violation of any provision of this part may report the violation to the Physicians Licensing Board, described in Section 58-67-201.
- (7) In addition to the penalties described in this section, the department may take any action described in Section 26-21-11 against an abortion clinic if a violation of this chapter occurs at the abortion clinic.

Amended by Chapter 208, 2019 General Session

76-7-314.5 Killing an unborn child.

- (1) A person is guilty of killing an unborn child if the person causes the death of an unborn child by performing an abortion of the unborn child in violation of the provisions of Subsection 76-7-302(3).
- (2) A woman is not criminally liable for:
 - (a) seeking to obtain, or obtaining, an abortion that is permitted by this part; or
 - (b) a physician's failure to comply with Subsection 76-7-302(3)(b)(ii) or Section 76-7-305.

Amended by Chapter 13, 2010 General Session

76-7-315 Exceptions to certain requirements in serious medical emergencies.

When due to a serious medical emergency, time does not permit compliance with Section 76-7-302, 76-7-305, 76-7-305.5, 76-7-308.5, or 76-7-310.5 the provisions of those sections do not apply.

Amended by Chapter 57, 2009 General Session

76-7-316 Actions not precluded.

Nothing in this part shall preclude any person believing himself aggrieved by another under this part, from bringing any other action at common law or other statutory provision.

Amended by Chapter 20, 1995 General Session

76-7-317 Separability clause.

If any one or more provision, section, subsection, sentence, clause, phrase or word of this part or the application thereof to any person or circumstance is found to be unconstitutional, the same is hereby declared to be severable and the balance of this part shall remain effective

notwithstanding such unconstitutionality. The legislature hereby declares that it would have passed this part, and each provision, section, subsection, sentence, clause, phrase or word thereof, irrespective of the fact that any one or more provision, section, subsection, sentence, clause, phrase, or word be declared unconstitutional.

Enacted by Chapter 33, 1974 General Session

76-7-317.1 Abortion Litigation Account.

- (1) As used in this section, "account" means the Abortion Litigation Account created in this section.
- (2) There is created a restricted account within the General Fund known as the "Abortion Litigation Account."
- (3) The Division of Finance may accept, for deposit in the restricted account, grants, gifts, bequests, or any money made available from any private sources for the purpose described in Subsection (4).
- (4) Except as provided in Subsection (9), money deposited into the restricted account on or after May 12, 2009, shall be retained in the account for the purpose of paying litigation and appellate expenses of the Office of the Attorney General, including any court-ordered payment of plaintiff's attorney fees, to defend any law passed by the Legislature on or after January 1, 2009, that:
 - (a) challenges the legal concept that a woman has a constitutional right to an abortion; or
 - (b) places a restriction on the right to an abortion.
- (5) Money shall be appropriated by the Legislature from the account to the Office of the Attorney General under Title 63J, Chapter 1, Budgetary Procedures Act.
- (6) The restricted account may be used only for costs, expenses, and attorney fees connected with the defense of an abortion law described in Subsection (4).
- (7) Any funds in the restricted account on May 11, 2009, shall be first used to offset money expended by the state in connection with litigation regarding Senate Bill 23, passed in the 1991 General Session.
- (8) Any funds described in Subsection (7) that are not needed to offset the money expended by the state in connection with litigation regarding Senate Bill 23, passed in the 1991 General Session, shall be retained in the account for the purpose described in Subsection (4).
- (9)
 - (a) If the Legislature does not pass a law described in Subsection (4) on or before July 1, 2014, the funds in the restricted account shall be used by the Division of Child and Family Services, within the Department of Human Services, for adoption assistance.
 - (b) If, on or before July 1, 2014, the Legislature passes a law described in Subsection (4), any funds remaining in the restricted account after the litigation and appellate expenses to defend the law are paid shall be used by the Division of Child and Family Services, within the Department of Human Services, for adoption assistance.

Amended by Chapter 278, 2010 General Session

76-7-321 Contraceptive and abortion services -- Funds -- Minor -- Definitions.

As used in Sections 76-7-321 through 76-7-325:

- (1) "Abortion services" means any material, program, plan, or undertaking which seeks to promote abortion, encourages individuals to obtain an abortion, or provides abortions.

- (2) "Contraceptive services" means any material, program, plan, or undertaking that is used for instruction on the use of birth control devices and substances, encourages individuals to use birth control methods, or provides birth control devices.
- (3) "Funds" means any money, supply, material, building, or project provided by this state or its political subdivisions.
- (4) "Minor" means any person under the age of 18 who is not otherwise emancipated, married, or a member of the armed forces of the United States.

Amended by Chapter 20, 1995 General Session

76-7-322 Public funds for provision of contraceptive or abortion services restricted.

No funds of the state or its political subdivisions shall be used to provide contraceptive or abortion services to an unmarried minor without the prior written consent of the minor's parent or guardian.

Amended by Chapter 50, 1988 General Session

76-7-323 Public funds for support entities providing contraceptive or abortion services restricted.

No agency of the state or its political subdivisions shall approve any application for funds of the state or its political subdivisions to support, directly or indirectly, any organization or health care provider that provides contraceptive or abortion services to an unmarried minor without the prior written consent of the minor's parent or guardian. No institution shall be denied state or federal funds under relevant provisions of law on the ground that a person on its staff provides contraceptive or abortion services in that person's private practice outside of such institution.

Amended by Chapter 50, 1988 General Session

76-7-324 Violation of restrictions on public funds for contraceptive or abortion services as misdemeanor.

Any agent of a state agency or political subdivision, acting alone or in concert with others, who violates Section 76-7-322, 76-7-323, or 76-7-331 is guilty of a class B misdemeanor.

Amended by Chapter 271, 2004 General Session

76-7-325 Notice to parent or guardian of minor requesting contraceptive -- Definition of contraceptives -- Penalty for violation.

- (1) Any person before providing contraceptives to a minor shall notify, whenever possible, the minor's parents or guardian of the service requested to be provided to such minor. Contraceptives shall be defined as appliances (including but not limited to intrauterine devices), drugs, or medicinal preparations intended or having special utility for prevention of conception.
- (2) Any person in violation of this section shall be guilty of a class C misdemeanor.

Enacted by Chapter 94, 1983 General Session

76-7-326 Partial birth abortions prohibited.

Any physician who knowingly performs a partial birth abortion and thereby kills a human fetus shall be fined or imprisoned, or both, as provided under this part. This section does not apply to

a partial birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life endangering physical condition caused by or arising from the pregnancy itself.

Enacted by Chapter 272, 2004 General Session

76-7-327 Remedies for father or maternal grandparents.

- (1) The father, if married to the mother at the time she receives a partial birth abortion, and if the mother has not attained the age of 18 years at the time of the abortion, the maternal grandparents of the fetus, may in a civil action obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.
- (2) Such relief shall include:
 - (a) money damages for all injuries, psychological and physical, occasioned by the violation of Section 76-7-326; and
 - (b) statutory damages equal to three times the cost of the partial birth abortion.

Amended by Chapter 13, 2010 General Session

76-7-328 Hearing to determine necessity of physician's conduct.

- (1) A physician accused of an offense under Section 76-7-326 may seek a hearing before the Physicians Licensing Board created in Section 58-67-201, or the Osteopathic Physician and Surgeon's Licensing Board created in Section 58-68-201 on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life endangering physical condition caused by or arising from the pregnancy itself.
- (2) The findings on that issue are admissible on that issue at the trial of the physician. Upon a motion from the physician, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.

Enacted by Chapter 272, 2004 General Session

76-7-330 Contingent continuance of prior law.

- (1) If the implementation of Section 76-7-326 enacted by this bill is stayed or otherwise ordered by a court of competent jurisdiction to not be implemented, beginning on the day on which the implementation of Section 76-7-326 is stayed or otherwise ordered not to be implemented the statutes listed in Subsection (2) shall:
 - (a) be given effect as if this bill did not amend those statutes; and
 - (b) remain in effect as if not amended by this bill until the day on which a court orders that Section 76-7-326 may be implemented.
- (2) Subsection (1) applies to:
 - (a) Section 76-7-301;
 - (b) Section 76-7-310.5; and
 - (c) Section 76-7-314.
- (3) Nothing in this section prevents the Legislature from amending, repealing, or taking any other action regarding the sections listed in Subsection (2) in this or a subsequent session.

Enacted by Chapter 272, 2004 General Session

76-7-331 Public funding of abortion forbidden.

- (1) As used in this section, "damage to a major bodily function" refers only to injury or impairment of a physical nature and may not be interpreted to mean mental, psychological, or emotional harm, illness, or distress.
- (2) Public funds of the state, its institutions, or its political subdivisions may not be used to pay or otherwise reimburse, either directly or indirectly, any person, agency, or facility for the performance of any induced abortion services unless:
 - (a) in the professional judgment of the pregnant woman's attending physician, the abortion is necessary to save the pregnant woman's life;
 - (b) the pregnancy is the result of rape or incest reported to law enforcement agencies, unless the woman was unable to report the crime for physical reasons or fear of retaliation; or
 - (c) in the professional judgment of the pregnant woman's attending physician, the abortion is necessary to prevent permanent, irreparable, and grave damage to a major bodily function of the pregnant woman provided that a caesarian procedure or other medical procedure that could also save the life of the child is not a viable option.
- (3) Any officer or employee of the state who knowingly authorizes the use of funds prohibited by this section shall be dismissed from that person's office or position and the person's employment shall be immediately terminated.

Enacted by Chapter 271, 2004 General Session